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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,075	01/23/2002	Steven D. McNeil	3862 P 002	3351

7590

01/10/2005

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EXAMINER

BUI, THACH H

ART UNIT

PAPER NUMBER

3752

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/057,075

Applicant(s)

MCNEIL, STEVEN D.

Examiner

Thach H Bui

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 November 2004.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.  
4a) Of the above claim(s) 8 and 9 is/are withdrawn from consideration.  
5) ☒ Claim(s) 16, 21, and 23 is/are allowed.  
6) ☒ Claim(s) 1-4, 10 and 18 is/are rejected.  
7) ☒ Claim(s) 5-7, 11-15, 17, 19, 20 and 22 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. The admenment filed November 22, 2004 has been received and entered.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 10, 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson (U.S. Patent No. 4,616,711).

Johnson teaches a system and method for controlling and preventing the spread of a fire. This is accomplished by forming a substantial foam strip along an area spaced from the fire, and back burning from the foam strip towards the fire or fire area. To form the foam strip, Johnson teaches a method of dropping foam-containing containers (22) from an aircraft (20). The foam containers (i.e. non-explosive bombs) are provided with valves that open approximately on impact (i.e. non-explosive ammunition) or at a selected time thereafter to cause the release of foam (abstract). Therefore, Johnson does teach a method for controlling a fire comprising using a non-explosive ammunition to perform the fire-fighting task of creating a back burn and preventing the fire from spreading. The invention includes an aircraft (i.e. a vehicle) supporting and/or carrying the non-explosive ammunition to deliver the non-explosive ammunition to the site (see Fig. 1).

***Allowable Subject Matter***

3. Claims 5-7, 11-15, 17, 19-20, and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. Claims 16, 21, and 23 are allowed.

***Response to Arguments***

5. Applicant's arguments, filed November 22, 2004, with respect to the rejection(s) of claim(s) 1-7 and 10-23 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Johnson.

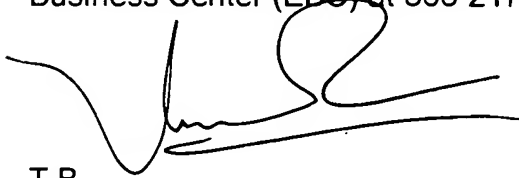
***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Primlani is cited of general interest.
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thach H Bui whose telephone number is 571-272-4898. The examiner can normally be reached on Monday-Friday, 7:30-4 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on 571-272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3752

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be 'T.B.', is written over the text of the paragraph.

T.B.  
01/04/2005